

AMENDED IN ASSEMBLY JULY 2, 2008

AMENDED IN ASSEMBLY JUNE 17, 2008

AMENDED IN SENATE APRIL 29, 2008

AMENDED IN SENATE APRIL 15, 2008

AMENDED IN SENATE APRIL 3, 2008

SENATE BILL

No. 1394

Introduced by Senator Lowenthal

February 21, 2008

An act to amend and repeal Section 103900 of the Health and Safety Code, and to amend Section 12818 of, and to add Article 6 (commencing with Section 13010) to Chapter 1 of Division 6 of, the Vehicle Code, relating to lapses in consciousness.

LEGISLATIVE COUNSEL'S DIGEST

SB 1394, as amended, Lowenthal. Lapses of consciousness: reports to the Department of Motor Vehicles.

Under existing law, a physician and surgeon is required to report in writing immediately to the local health officer, the name, date of birth, and address of every patient at least 14 years of age or older whom the physician and surgeon has diagnosed as having a disorder characterized by lapses of consciousness. Existing law requires the State Department of Public Health, in cooperation with the Department of Motor Vehicles, to define disorders characterized by lapses of consciousness, and to include within the defined disorders Alzheimer's disease and related disorders that are severe enough to be likely to impair a person's ability to operate a motor vehicle. Existing law further requires the local health

officer to provide this information to the Department of Motor Vehicles, for the information of that department in enforcing the Vehicle Code.

This bill would repeal these provisions on January 1, 2010, and, instead, would authorize a physician and surgeon to report to the Department of Motor Vehicles (DMV), in good faith, specified information relating to a patient at least 15 years of age, or 14 years of age if the patient has a junior permit, whom the physician and surgeon has diagnosed as having suffered a lapse of consciousness, if the physician and surgeon reasonably believes that reporting the patient will serve the public interest.

This bill, commencing January 1, 2010, would require a physician and surgeon to report specified information to the DMV, in writing, regarding certain patients the physician and surgeon has diagnosed with Alzheimer's disease or another dementia disorder, or with a disorder characterized by lapses of consciousness within the previous 6 months, as specified. The bill would excuse a physician and surgeon from these mandatory reporting requirements relating to lapse of consciousness disorders under designated circumstances.

This bill would exempt a physician and surgeon from civil and criminal liability for making a report authorized or required by the bill. The bill, commencing January 1, 2010, would require the DMV, upon receipt of a report made pursuant to the bill, to reexamine the person's qualifications to operate a vehicle, as prescribed, and make a determination whether to restrict, make subject to terms and conditions of probation, revoke, or suspend that person's license ~~based on the evaluation, reexamination, and assessment provided by the reporting physician.~~ *The bill, with regard to making that determination, would require the DMV to give primary consideration to the evaluation and assessment provided by the reporting physician and would authorize the DMV to rely on other specified factors and other forms of examination, including a road examination under specified circumstances.*

This bill would require the DMV, in consultation with appropriate professional medical organizations, to develop physician reporting forms on or before January 1, 2010, and, in cooperation with the State Department of Public Health and in consultation with appropriate professional medical organizations, to adopt regulations by January 1, 2010, defining disorders characterized by recurrent lapses of consciousness and listing those disorders that do not require reporting under the bill.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 103900 of the Health and Safety Code
2 is amended to read:
3 103900. (a) Every physician and surgeon shall report
4 immediately to the local health officer in writing, the name, date
5 of birth, and address of every patient at least 14 years of age or
6 older whom the physician and surgeon has diagnosed as having a
7 case of a disorder characterized by lapses of consciousness.
8 However, if a physician and surgeon reasonably and in good faith
9 believes that the reporting of a patient will serve the public interest,
10 he or she may report a patient's condition even if it may not be
11 required under the department's definition of disorders
12 characterized by lapses of consciousness pursuant to subdivision
13 (d).
14 (b) The local health officer shall report in writing to the
15 Department of Motor Vehicles the name, age, and address of every
16 person reported to it as a case of a disorder characterized by lapses
17 of consciousness.
18 (c) These reports shall be for the information of the Department
19 of Motor Vehicles in enforcing the Vehicle Code, and shall be
20 kept confidential and used solely for the purpose of determining
21 the eligibility of any person to operate a motor vehicle on the
22 highways of this state.
23 (d) The department, in cooperation with the Department of
24 Motor Vehicles, shall define disorders characterized by lapses of
25 consciousness based upon existing clinical standards for that
26 definition for purposes of this section and shall include Alzheimer's
27 disease and those related disorders that are severe enough to be
28 likely to impair a person's ability to operate a motor vehicle in the
29 definition. The department, in cooperation with the Department
30 of Motor Vehicles, shall list those circumstances that shall not
31 require reporting pursuant to subdivision (a) because the patient
32 is unable to ever operate a motor vehicle or is otherwise unlikely
33 to represent a danger that requires reporting. The department shall
34 consult with professional medical organizations whose members
35 have specific expertise in the diagnosis and treatment of those

1 disorders in the development of the definition of what constitutes
2 a disorder characterized by lapses of consciousness as well as
3 definitions of functional severity to guide reporting so that
4 diagnosed cases reported pursuant to this section are only those
5 where there is reason to believe that the patients' conditions are
6 likely to impair their ability to operate a motor vehicle. The
7 department shall complete the definition on or before January 1,
8 1992.

9 (e) The Department of Motor Vehicles shall, in consultation
10 with the professional medical organizations specified in subdivision
11 (d), develop guidelines designed to enhance the monitoring of
12 patients affected with disorders specified in this section in order
13 to assist with the patients' compliance with restrictions imposed
14 by the Department of Motor Vehicles on the patients' licenses to
15 operate a motor vehicle. The guidelines shall be completed on or
16 before January 1, 1992.

17 (f) A physician and surgeon who reports a patient diagnosed as
18 a case of a disorder characterized by lapses of consciousness
19 pursuant to this section shall not be civilly or criminally liable to
20 any patient for making any report required or authorized by this
21 section.

22 (g) This section shall remain in effect only until January 1, 2010,
23 and as of that date is repealed, unless a later enacted statute, that
24 is enacted before January 1, 2010, deletes or extends that date.

25 SEC. 2. Section 12818 of the Vehicle Code, as amended by
26 Section 13 of Chapter 985 of the Statutes of 2000, is amended to
27 read:

28 12818. (a) Upon receipt of a request for reexamination and
29 presentation of a legible copy of a notice of reexamination by a
30 person issued the notice pursuant to Section 21061, or upon receipt
31 of a report from a local health officer issued pursuant to subdivision
32 (b) of Section 103900 of the Health and Safety Code, the
33 department shall reexamine the person's qualifications to operate
34 a motor vehicle, including a demonstration of the person's ability
35 to operate a motor vehicle as described in Section 12804.9.

36 (b) Based on the department's reexamination of the person's
37 qualifications pursuant to subdivision (a), the department shall
38 determine if either of the following actions should be taken:

1 (1) Suspend or revoke the driving privilege of that person if the
2 department finds that any of the grounds exist which authorize the
3 refusal to issue a license.

4 (2) Restrict, make subject to terms and conditions of probation,
5 suspend, or revoke the driving privilege of that person based upon
6 the records of the department as provided in Chapter 3
7 (commencing with Section 13800).

8 (c) As an alternative to subdivision (a), the department may
9 suspend or revoke the person's driving privilege as provided under
10 Article 2 (commencing with Section 13950) of Chapter 3.

11 (d) Upon request, the department shall notify the law
12 enforcement agency which employs the traffic officer who issued
13 the notice of reexamination described in subdivision (a) of the
14 results of the reexamination.

15 (e) This section shall remain in effect only until January 1, 2010,
16 and as of that date is repealed, unless a later enacted statute, that
17 is enacted before January 1, 2010, deletes or extends that date.

18 SEC. 3. Section 12818 of the Vehicle Code, as added by
19 Section 14 of Chapter 985 of the Statutes of 2000, is amended to
20 read:

21 12818. (a) Upon receipt of a request for reexamination and
22 presentation of a legible copy of a notice of reexamination by a
23 person issued the notice pursuant to Section 21061, the department
24 shall reexamine the person's qualifications to operate a motor
25 vehicle, including a demonstration of the person's ability to operate
26 a motor vehicle as described in Section 12804.9.

27 (b) Based on the department's reexamination of the person's
28 qualifications pursuant to subdivision (a), the department shall
29 determine if either of the following actions should be taken:

30 (1) Suspend or revoke the driving privilege of that person if the
31 department finds that any of the grounds exist which authorize the
32 refusal to issue a license.

33 (2) Restrict, make subject to terms and conditions of probation,
34 suspend, or revoke the driving privilege of that person based upon
35 the records of the department as provided in Chapter 3
36 (commencing with Section 13800).

37 (c) As an alternative to subdivision (a), the department may
38 suspend or revoke the person's driving privilege as provided under
39 Article 2 (commencing with Section 13950) of Chapter 3.

(d) Upon request, the department shall notify the law enforcement agency that employs the traffic officer who issued the notice of reexamination of the results of the reexamination.

(e) Upon receipt of a report made pursuant to Section 13010 or 13011, the department shall reexamine the reported person's qualifications to operate a motor vehicle, including requiring a road examination pursuant to Section 12804.9. The department shall make a determination to restrict, make subject to terms and conditions of probation, revoke, or suspend a license ~~based upon~~ *and, in making that determination, the department shall give primary consideration to the evaluation and assessment provided by the reporting physician and surgeon, surgeon. The department may also rely on other forms of examination, including a road examination pursuant to Section 12804.9, when the particular health circumstances of the reported person warrant that examination,* and the factors enumerated in Section 110.01 of Title 13 of the California Code of Regulations *in making that determination.*

(f) This section shall become operative on January 1, 2010.

SEC. 4. Article 6 (commencing with Section 13010) is added to Chapter 1 of Division 6 of the Vehicle Code, to read:

Article 6. Physician and Surgeon Reporting of Medical
Conditions

13010. (a) A physician and surgeon shall report immediately to the department, in writing, the name, date of birth, and address of every patient at least 15 years of age, or 14 years of age if the patient has a junior permit, whom the physician and surgeon has diagnosed with Alzheimer's disease or another dementia disorder; or the physician and surgeon has diagnosed as suffering from a single lapse of consciousness within the previous six months, if the patient suffers from a disorder identified in Section 2806 of Title 17 of the California Code of Regulations, and the physician and surgeon believes, in his or her professional judgment, that the risk of recurrence is sufficient to pose a threat to public safety; or the physician and surgeon has diagnosed the patient as previously suffering multiple lapses of consciousness, and whose medical condition is identified in Section 2806 of Title 17 of the California Code of Regulations, if substantial medical evidence suggests a

1 recurrence of a lapse of consciousness or that the condition
2 adversely affects the patient's ability to operate a motor vehicle.

3 (b) (1) Except as provided in paragraph (2), a physician and
4 surgeon is not required to make a report pursuant to this section
5 if any of the following occurs:

6 (A) Within the previous six months, the physician and surgeon
7 previously made a report pursuant to this section for this patient,
8 and the condition has not substantially changed.

9 (B) Within the previous six months, the patient's condition was
10 initially diagnosed by another physician and surgeon, and the
11 physician and surgeon has knowledge that the prior physician and
12 surgeon either determined that a report was not required under this
13 chapter, or made a report to the department, unless there is
14 substantial medical evidence that the condition has substantially
15 changed and may adversely affect the person's ability to drive.

16 (C) The physician and surgeon making the initial diagnosis,
17 relying on substantial medical evidence, determines both of the
18 following:

19 (i) That the disorder can and likely will be controlled and
20 stabilized within 30 days of the initial diagnosis by medication,
21 therapy, surgery, a restriction on activities, or devices, and the
22 treatment has been prescribed, administered, or referred.

23 (ii) That the patient's condition during the 30-day period does
24 not pose an undue risk to public safety while operating a motor
25 vehicle.

26 (2) If, during the 30-day period described in subparagraph (C)
27 of paragraph (1), the physician and surgeon determines that the
28 patient poses an imminent risk to public safety while operating a
29 motor vehicle or the patient's impairment or disorder has not been
30 controlled and stabilized at the conclusion of the 30-day period
31 described in subparagraph (C) of paragraph (1), the physician and
32 surgeon shall report immediately to the department in accordance
33 with subdivision (a).

34 (c) A physician and surgeon shall not be civilly or criminally
35 liable to the reported patient for making any report required or
36 authorized by this section.

37 (d) For purposes of this section, "disorders characterized by
38 lapses of consciousness" means those disorders defined pursuant
39 to paragraph (1) of subdivision (a) of Section 13012.

40 (e) This section shall become operative on January 1, 2010.

1 13011. (a) A physician and surgeon may report immediately
2 to the Department of Motor Vehicles, in writing, the name, date
3 of birth, and address of every patient at least 15 years of age or
4 older, or 14 years of age if the person has a junior permit, whom
5 the physician and surgeon has diagnosed as having a disorder
6 characterized by lapses of consciousness, if a physician and surgeon
7 reasonably and in good faith believes that reporting the patient
8 will serve the public interest. The physician and surgeon may report
9 a patient's condition even if it may not be required under the
10 department's definition of disorders characterized by lapses of
11 consciousness pursuant to this article.

12 (b) A physician and surgeon who reports a patient pursuant to
13 this article shall contemporaneously complete and transmit to the
14 department the form prepared by the department for this purpose,
15 and shall address each of the factors specified in Section 110.01
16 of Title 13 of the California Code of Regulations of which the
17 physician and surgeon has knowledge.

18 (c) The reports transmitted pursuant to this article shall be for
19 use by the department only, and shall be kept confidential and used
20 solely by the department for the purpose of determining the
21 eligibility of any person to operate a motor vehicle on the highways
22 of this state, or for the purpose of a bona fide research project, if
23 the data is solely provided by the department in anonymous form.

24 (d) A physician and surgeon shall not be civilly or criminally
25 liable to the reported patient for making any report required or
26 authorized by this section.

27 (e) For purposes of this section, "disorders characterized by
28 lapses of consciousness" shall be those disorders defined pursuant
29 to paragraph (1) of subdivision (a) of Section 13012.

30 (f) This section shall become operative on January 1, 2010.

31 13012. (a) The department, in cooperation with the State
32 Department of Public Health, by January 1, 2010, shall adopt
33 regulations that do all of the following:

34 (1) Define disorders characterized by recurrent lapses of
35 consciousness for purposes of this article, based upon existing
36 clinical standards for that definition, and include in that definition
37 Alzheimer's disease and those related disorders that are severe
38 enough to result in recurrent lapses of consciousness and are likely
39 to impair a person's ability to operate a motor vehicle.

1 (2) List circumstances that shall not require reporting pursuant
2 to Section 13011, because the patient is unable to ever operate a
3 motor vehicle or is otherwise unlikely to represent a danger that
4 requires reporting.

5 (3) List circumstances that do not require reporting pursuant to
6 this section.

7 (b) The department shall consult with professional medical
8 organizations whose members have specific expertise in treatment
9 of those impairments, conditions, and disorders, including, but not
10 limited to, those associations related to epilepsy, in the
11 development of any required definitions and necessary reporting
12 guidelines to ensure that cases reported pursuant to this section
13 are limited to impairments, conditions, and disorders that are
14 characterized by a recurrent lapse of consciousness and that
15 compromise a patient's ability to safely operate a motor vehicle.

16 (c) On or before January 1, 2010, the department, in consultation
17 with the professional medical organizations described in
18 subdivision (b), shall develop a physician reporting form that
19 incorporates the factors contained in Section 110.01 of Title 13 of
20 the California Code of Regulations. *The form shall contain a space*
21 *for the reporting physician and surgeon to state whether, in his*
22 *or her opinion, the patient's medical condition may affect safe*
23 *driving.* The form shall be made available on the department's
24 official Internet Web site for use by all physicians and surgeons.